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EXAMINER HUERTA, ALEXANDER Q				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/647,549

Applicant(s)

FEINLEIB, DAVID

Examiner

ALEXANDER Q. HUERTA

Art Unit

4115

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- Paper No(s)/Mail Date 25 August 2003
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-8, 10-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hidary et al. (United States Patent 5,774,644), herein after referenced as Hidary.

Regarding **claim 1**, Hidary discloses enhanced video programming system and method for incorporating and displaying retrieved integrated internet information segments. In addition, Hidary discloses that the client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16, as shown in FIGS. 3 and 4. Hidary further discloses that the URLs are sent directly over the Internet to the user's PC 16 via the client software 106 over a direct point-to-point or multicasting connection, which therefore reads on claimed "receive supplemental data sent to a multicast address", as disclosed in column 7 lines 20-40.

Regarding to initiate an enhancement action based upon the supplemental data to enhance a video program as the video is being played, Hidary discloses that the invention is a computer based system for receiving a video program along with embedded uniform resource locators (URLs)--which direct the user's computer 16 to address locations, or Web sites, on the Internet 20 to retrieve related Web pages. These Web pages correspond to the video presentation, which reads on claimed "initiate an enhancement action based upon the supplemental data to enhance a video program as the video is being played", as disclosed in column 4 lines 28-40.

Regarding **claim 2**, Hidary discloses everything as claimed above (see claim 1). In addition, Hidary discloses that the specific URL is then sent to the Web browser, preferably a JAVA enabled browser 98. Upon receipt of the URL, the browser 98, in step 58, will access the Web site address 122 (FIG. 4) indicated by the URL and retrieve the cited Web page(s) 102 via the Internet, which reads on claimed "wherein the enhancement action comprises activation of a hyperlink", as disclosed in column 7 lines 54-60.

Regarding **claim 3**, Hidary discloses everything as claimed above (see claim 1). In addition, Hidary discloses that the specific URL is then sent to the Web browser, preferably a JAVA enabled browser 98. Upon receipt of the URL, the browser 98, in step 58, will access the Web site address 122 (FIG. 4) indicated by the URL and retrieve the cited Web page(s) 102 via the Internet, which reads on claimed "wherein the enhancement action comprises launching executable code", as disclosed in column 7 lines 54-60.

Regarding **claim 5**, Hidary discloses everything as claimed above (see claim 1). In addition, Hidary discloses that the client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16,, which reads on claimed "computer-executable instruction to direct the viewer computing unit to display the supplemental data concurrently with the primary content", as discloses in column 7 lines 20-30.

Regarding **claim 6**, Hidary discloses everything as claimed above (see claim 1). In addition, Hidary discloses that a JAVA enabled browser 98 as well as specialized software 106 for performing part of the method of the present invention are installed on the computer 16. The JAVA enabled browser 98 allows the computer 16 to retrieve the Web pages 102. The client software (or specialized software) 106 retrieves URLs from the video program (embodiment of FIG. 1), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16, which reads on claimed "present the video program within a hypermedia document; and controlling the placement of the video program within the hypermedia document using the supplemental data", as disclosed in column 7 lines 10-29.

Regarding **claim 7**, Hidary discloses everything as claimed above (see claim 1). In addition, Hidary discloses that a JAVA enabled browser 98 as well as specialized

software 106 for performing part of the method of the present invention are installed on the computer 16. The JAVA enabled browser 98 allows the computer 16 to retrieve the Web pages 102. The client software (or specialized software) 106 retrieves URLs from the video program (embodiment of FIG. 1), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16, which therefore reads on claimed "a hypermedia document stored on computer-readable medium and executable on the processor for graphical rendering on the display", as disclosed in column 7 lines 10-29.

Regarding **claims 8, 12, 13**, Hidary discloses everything as claimed. In addition, claims 8, 12, 13 are interpreted and thus rejected for the reason set forth above in the rejection of claims 1, 5, 6. Claims 1, 5, 6 describes a program enhancement listener implemented as computer-executable instructions stored on computer-readable medium and claims 8, 12, 13 describe a method for implementing the computer-executable instructions stored on computer-readable medium. Thus, claims 8, 12, 13 are rejected.

Regarding **claim 10**, Hidary discloses everything as claimed above (see claim 8). In addition, Hidary discloses that the client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16, as shown in FIGS. 3 and 4 and explained in more detail below, which read on claimed "wherein the

supplemental data comprises a hyperlink to a target resource, and the initiating comprises activating the hyperlink to the target resource", as disclosed in column 7 lines 20-30.

Regarding **claim 11**, Hidary discloses everything as claimed above (see claim 8). In addition, Hidary discloses that the client software 106 retrieves URLs from the video program (embodiment of FIG. 1). The specific URL is then sent to the Web browser, preferably a JAVA enabled browser 98. Upon receipt of the URL, the browser 98, in step 58, will access the Web site address 122 (FIG. 4) indicated by the URL and retrieve the cited Web page(s) 102 via the Internet, which reads on claimed "wherein the supplemental data comprises executable code, and the initiating comprises launching the executable code", as disclosed in column 7 lines 20-25 and lines 54-60.

Regarding **claims 14**, Hidary discloses everything as claimed. In addition, claim 14 is interpreted and thus rejected for the reason set forth above in the rejection of claim 8. Claim 8 describes a method of receiving supplemental content and initiating an enhancement action and claim 14 describes a computer to perform the method. Thus, claim 14 is rejected.

Regarding **claims 15**, Hidary discloses everything as claimed. In addition, claim 15 is interpreted and thus rejected for the reason set forth above in the rejection of claim 8. Claim 8 describes a method of receiving supplemental content and initiating an enhancement action and claim 15 describes a computer-readable media having computer-executable instructions to perform the method. Thus, claim 15 is rejected.

Regarding **claims 16, 20**, Hidary discloses everything as claimed. In addition, claims 16, 20 are interpreted and thus rejected for the reason set forth above in the rejection of claims 1, 6. Claims 1, 6 describes a program enhancement listener implemented as computer-executable instructions stored on computer-readable medium and claims 16, 20 describes a system implementing the computer-executable instructions stored on computer-readable medium. Thus, claim 16, 20 are rejected.

Regarding **claims 17, 18, 19**, Hidary discloses everything as claimed. In addition, claims 17, 18, 19 are interpreted and thus rejected for the reason set forth above in the rejection of claims 10, 11, 12. Claims 10, 11, 12 describe a method for a program enhancement listener and claims 17, 18, 19 describe a system implementing the method. Thus, claims 17, 18, 19 are rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 9, 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidary in view of Brodsky (United States Patent 5,809,471), herein after referenced as Brodsky.

Regarding **claim 4**, Hidary discloses everything as claimed above (see claim 1). However, Hidary fails to disclose "wherein the supplemental data is associated with at

least one key phrase of a closed captioning script of the video program", however the examiner maintains that it was well known in the art to provide the supplemental data is associated with at least one key phrase of a closed captioning script of the video program, as taught by Brodsky.

In a similar field of endeavor, Brodsky discloses the retrieval of additional information not found in interactive TV or telephony signal by application using dynamically extracted vocabulary. In addition, Brodsky discloses that a dynamically changing dictionary is created from items or keywords extracted from the most recently received program portion. The user's request is matched against this continually changing dictionary. Upon recognition of the request, a search is initiated to access, import and deliver to the user the information required to satisfy the request. In addition, Brodsky further discloses that the keywords can be captured of from imbedded parts of the received signals, such as closed captioned text, which reads on claimed " wherein the supplemental data is associated with at least one key phrase of a closed captioning script of the video program", as disclosed in column 1 lines 55-62 and column 5 lines 48-60.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hidary by specifically providing wherein the supplemental data is associated with at least one key phrase of a closed captioning script of the video program, as taught by Brodsky, for the purpose of allowing the user who is watching television to retrieve additional information concerning the program they are watching.

Regarding **claim 9**, Hidary discloses everything as claimed above (see claim 8). In addition, claim 9 is interpreted and thus rejected for the reason set forth above in the rejection of claim 4. Claim 4 describes a program enhancement listener implemented as computer-executable instructions stored on computer-readable medium and claim 9 describes a method for implementing the computer-executable instructions stored on computer-readable medium. Thus, claim 9 is rejected.

Regarding **claim 21**, Hidary discloses that at the appropriate times, the URLs are sent directly over the Internet to the user's PC 16 via the client software 106 over a direct point-to-point or multicasting connection, which reads on claimed "the key phrase module multicasting the enhancement action to a multicast address", as discloses in column 7 lines 34-40.

Regarding a program enhancement listener to listen to the multicast address for the enhancement action and to initiate an enhancement action based upon the supplemental data to enhance a video program as the video program is being played, Hidary discloses that the client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102, and synchronizes the retrieved Web pages to the video content for display on the user's computer 16, which reads on claimed "a program enhancement listener to listen to the multicast address for the enhancement action", as disclosed in column 7 lines 20-30. However, Hidary fails to disclose "a key phrase module to identify one or more key phrases from the closed captioning script and to

associate supplemental data to the one or more key phrases identified from the closed captioning script", however the examiner maintains that it was well known in the art to provide a key phrase module to identify one or more key phrases from the closed captioning script and to associate supplemental data to the one or more key phrases identified from the closed captioning script, as taught by Brodsky.

Regarding a key phrase module to identify one or more key phrases from the closed captioning script and to associate supplemental data to the one or more key phrases identified from the closed captioning script, Brodsky discloses that a dynamically changing dictionary is created from items or keywords extracted from the most recently received program portion. The user's request is matched against this continually changing dictionary. Upon recognition of the request, a search is initiated to access, import and deliver to the user the information required to satisfy the request. In addition, Brodsky further discloses that the keywords can be captured of from imbedded parts of the received signals, such as closed captioned text, which reads on claimed "a key phrase module to identify one or more key phrases from the closed captioning script and to associate supplemental data to the one or more key phrases identified from the closed captioning script", as disclosed in column 1 lines 55-62 and column 5 lines 48-60.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hidary by specifically providing a key phrase module to identify one or more key phrases from the closed captioning script and to associate supplemental data to the one or more key phrases identified from the closed

captioning script, as taught by Brodsky, for the purpose of allowing the user who is watching television to retrieve additional information concerning the program they are watching.

Regarding **claim 22**, Hidary in view of Brodsky disclose everything as claimed above (see claim 21). In addition, Hidary discloses a JAVA enabled browser 98 as well as specialized software 106 for performing part of the method of the present invention are installed on the computer 16. The JAVA enabled browser 98 allows the computer 16 to retrieve the Web pages 102 and is preferred software, since it is platform independent, and thus, enables efficient and flexible transfer of programs, images, etc., over the Internet 20. The client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102. Furthermore, Merriam-Webster's Dictionary defines the word "embed" as to make something an integral part of. Therefore, the Java enabled browser 98 is an essential part of the client software 106, so that the receiving terminal can access the supplemental content on the web, which reads on claimed "wherein the program enhancement listener comprises a control embedded in a container", as disclosed in column 7 lines 10-30.

Regarding **claim 23**, Hidary in view of Brodsky disclose everything as claimed above (see claim 21). In addition, Hidary discloses a JAVA enabled browser 98 as well as specialized software 106 for performing part of the method of the present invention are installed on the computer 16. The JAVA enabled browser 98 allows the computer 16

to retrieve the Web pages 102 and is preferred software, since it is platform independent, and thus, enables efficient and flexible transfer of programs, images, etc., over the Internet 20. The client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102. Furthermore, Merriam-Webster's Dictionary defines the word "embed" as to make something an integral part of. Therefore, the Java enabled browser 98 is an essential part of the client software 106, so that the receiving terminal can access the supplemental content on the web, which reads on claimed "wherein the program enhancement listener comprises a control embedded in an HTML page", as disclosed in column 7 lines 10-30.

Regarding **claim 24**, Hidary in view of Brodsky disclose everything as claimed above (see claim 21). In addition, Hidary discloses a JAVA enabled browser 98 as well as specialized software 106 for performing part of the method of the present invention are installed on the computer 16. The JAVA enabled browser 98 allows the computer 16 to retrieve the Web pages 102 and is preferred software, since it is platform independent, and thus, enables efficient and flexible transfer of programs, images, etc., over the Internet 20. The client software 106 retrieves URLs from the video program (embodiment of FIG. 1) or directly from the Internet connection (embodiments of FIGS. 2 and 4), interprets these URLs and directs the JAVA enabled browser 98 to retrieve the particular relevant Web pages 102. Furthermore, Merriam-Webster's Dictionary defines the word "embed" as to make something an integral part of. Therefore, the Java

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enabled browser 98 is an essential part of the client software 106, so that the receiving terminal can access the supplemental content on the web, which reads on claimed "wherein the program enhancement listener comprises a control embedded in an application", as disclosed in column 7 lines 10-30.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 8, 14, 15, 16 in the instant application correspond to Claims 1, 4 in Patent # 6,637,032. Claims 1, 8, 14, 15, 16 in the instant application recite limitations receiving supplemental data and initiating an enhancement action based on supplemental data, which is also recited in Patent # 6,637,032. However, claims 1, 4 in Patent # 6,637,032 recite the additional element relating supplemental data to key phrases of the closed captioning script. Since claims 1, 8, 14, 15, 16 in the instant

application are a broader recitation of claims 1, 4 in Patent # 6,637,032, it would have been obvious to modify claims 1, 4 in Patent # 6,637,032 to get claims 1, 8, 14, 15, 16 in the instant application.

Claims 2, 3, 10, 11, 17, 18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5, 23 of U.S. Patent No. 6,637,032. Although the conflicting claims are not identical, they are not patentably distinct from each other because inventions disclose wherein the enhancement listener comprises launching executable code.

Claims 4, 9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,637,032. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions describe wherein supplemental data is associated with a key phrase in the closed captioning script.

Claims 5, 12, 19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 6, 24 of U.S. Patent No. 6,637,032. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions describe displaying the supplemental data concurrently with the primary content.

Claims 6, 13, 20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 25 of U.S. Patent No. 6,637,032. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions describe presenting the video program in a

hypermedia document and controlling the placement of the video program in the hypermedia document using supplemental data.

Claim 21 in the instant application correspond to Claims 32, 33 in Patent # 6,637,032. Claim 21 in the instant application recite limitations a key phrase module to identify key phrases from the closed captioning script, multicasting the enhancement action, a program enhancement listener, and initiate enhancement action, which is also recited in Patent # 6,637,032. However, claims 32, 33 in Patent # 6,637,032 recite the additional element creating key phrase data file, playing video program in a hypermedia document, and controlling placement of the video program. Since claim 21 in the instant application is a broader recitation of claims 32, 33 in Patent # 6,637,032, it would have been obvious to modify claim 32, 33 in Patent # 6,637,032 to get claim 21 in the instant application.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDER Q. HUERTA whose telephone number is (571)270-3582. The examiner can normally be reached on M-F(Alternate Fridays Off) 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jefferey Harold can be reached on 571-272-7519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexander Q Huerta
Examiner
Art Unit 4115

February 1, 2008
/Jefferey F Harold/
Supervisory Patent Examiner, Art Unit 4115